

31.7.2024

Orders on IA No.8 U/O 2 Rule 10(2) of CPC

The plaintiff has filed this application U/O 1 Rule 10(2) of CPC and sought to implead the proposed defendant as defendant No.8 in this suit.

2. The plaintiff has sworn to an affidavit in support of IA and stated that the defendant NO.7 gifted the suit property in favour of her husband-proposed defendant on 10.6.2020. As per the gift deed the suit property is standing in the name of proposed defendant. Hence, he is proper and necessary party to this suit. Hence prays to allow the IA.

3. After service of IA notice the proposed defendant has appeared through his counsel and filed objections to IA and contended that the application is not maintainable either in law or on facts. He has admitted that the defendant NO.7 gifted the suit property in his favour through gift deed dated 10.6.2020. He has also admitted that as per the gift deed now the suit property is standing in his name. He has contended that the plaintiff has filed this application only to harass this defendant and drag the matter. Hence, prays to dismiss the IA..

4. Perused the records. Heard arguments.

5. The suit is one for the relief of partition and separate possession. It is not in dispute that the suit property was transferred in the name of proposed defendant by way of gift deed dated 10.6.2020 executed by his wife-defendant No.7. It is also not in

dipsute that now the suit property is standing in the name of proposed defendant. Therefore, the proposed defendant is proper and necessary party to the suit. Hence the following:

ORDER

The application filed by the plaintiff U/O I Rule 10(2) of CPC is hereby allowed.

The proposed defendant is added as defendant No.8 in this suit.

The plaintiff shall amend the plaint and furnish amended plaint within ten days from today.

For amendment and amended plaint. Call on 8..8.2024.

Senior Civil Judge & JMFC,
Sedam.